

Introduced by Senator Bowen

February 24, 2006

An act to amend Section 1277 of the Code of Civil Procedure, relating to change of names.

LEGISLATIVE COUNSEL'S DIGEST

SB 1743, as introduced, Bowen. Change of names: sexual assault victims.

Existing law provides that where a petition to the court for a change of name alleges that the reason for the petition is to avoid domestic violence or stalking, as defined, and the petitioner is a participant in the address confidentiality program, the petition, the order of the court, and the copy of the order to show cause that is required to be published shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the program.

This bill would additionally apply these provisions to a petitioner who is, or who is filing on behalf of, a victim of sexual assault. It would also specify that the action for the change of name is exempt under these provisions from the requirement of publication of the order to show cause.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1277 of the Code of Civil Procedure is
- 2 amended to read:
- 3 1277. (a) Where an action for a change of name is
- 4 commenced by the filing of a petition, except as provided in

subdivisions (b) and (c), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four-~~or~~ *nor* more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) (1) Where the petition for a change of name alleges ~~that the reason for the petition is to avoid domestic violence, as defined in Section 6211 of the Family Code, or stalking, as defined in Section 646.9 of the Penal Code~~ *a reason or circumstance described in paragraph (2)*, and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, *the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition; and the order of the court, and the copy published pursuant to subdivision (a) shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be*

1 on file with the Secretary of State pursuant to the provisions of
2 the address confidentiality program.

3 (2) *The procedure described in paragraph (1) applies to*
4 *petitions alleging any of the following reasons or circumstances:*

5 (A) *To avoid domestic violence, as defined in Section 6211 of*
6 *the Family Code.*

7 (B) *To avoid stalking, as defined in Section 646.9 of the Penal*
8 *Code.*

9 (C) *The petitioner is, or is filing on behalf of, a victim of*
10 *sexual assault, as defined in Section 6205.5 of the Government*
11 *Code.*

12 (c) An action for a change of name for a witness participating
13 in the state Witness Protection Program established by Title 7.5
14 (commencing with Section 14020) of Part 4 of the Penal Code
15 who has been approved for the change of name by the program is
16 exempt from the requirement for publication of the order to show
17 cause under subdivision (a).

18 (d) Where application for change of name is brought as part of
19 an action under the Uniform Parentage Act (Part 3 (commencing
20 with Section 7600) of Division 12 of the Family Code), whether
21 as part of a petition or cross-complaint or as a separate order to
22 show cause in a pending action thereunder, service of the
23 application shall be made upon all other parties to the action in a
24 like manner as prescribed for the service of a summons, as is set
25 forth in Article 3 (commencing with Section 415.10) of Chapter
26 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue,
27 notice of the hearing shall be given to all parties in the action in a
28 like manner and within the time limits prescribed generally for
29 the type of hearing (whether trial or order to show cause) at
30 which the issue of the change of name is to be decided.

31 (e) Where a guardian files a petition to change the name of his
32 or her minor ward pursuant to Section 1276:

33 (1) The guardian shall provide notice of the hearing to any
34 living parent of the minor by personal service at least 30 days
35 prior to the hearing.

36 (2) If either or both parents are deceased or cannot be located,
37 the guardian shall cause, not less than 30 days prior to the
38 hearing, to be served a notice of the time and place of the hearing

- 1 or a copy of the order to show cause on the child's grandparents,
- 2 if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

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